

**IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION**

<b>UNITED STATES OF AMERICA</b>	§	
	§	
<b>v.</b>	§	<b>Criminal No. 4:21-cr-00009</b>
	§	
<b>ROBERT T. BROCKMAN</b>	§	<b>UNOPPOSED</b>

**UNOPPOSED MOTION TO MODIFY  
COMPETENCY HEARING SCHEDULING ORDER**

On February 1, 2021, the Court found that there is reasonable cause to believe that Mr. Brockman may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequence of the proceedings against him or to assist properly in his defense, and scheduled a competency hearing for June 29, 2021, pursuant to 18 U.S.C. § 4241(b). Dkt. No. 36 (“February 1 Order”).

In the February 1 Order, the Court set deadlines of April 16 for Mr. Brockman’s psychiatric and/or psychological evaluations by the Government’s experts; May 7 for written reports of the Government’s experts; and May 28 for any additional expert reports from either party. The parties subsequently agreed to a schedule for the Government’s varied examinations in order to meet the Court’s scheduled deadlines. The Government’s planned examinations include a positron emission tomography (“PET”) scan, a sleep study, a one-day examination by one government expert, and three consecutive days of

examinations by the government’s other two experts. *See* Ex. A, Declaration of Kathryn Keneally, March 29, 2021 (“Keneally Decl.”) at ¶3.

On the evening of Sunday, March 14, 2021, after Mr. Brockman submitted to the PET scan, but before the other studies and tests agreed upon by the parties could be completed, Mr. Brockman was brought to the emergency room at Houston Methodist Hospital. *Id.* ¶4. He was admitted to the Neurosensory Center in the following days, and then remained in the hospital until Friday, March 19. *Id.* *Id.* ¶5. A summary of Mr. Brockman’s diagnosis and condition is set out in the following paragraph, which Movant respectfully requests be redacted in the public filing of this motion, in accordance with Southern District of Texas General Order No. 2004-11, due to the inclusion of sensitive medical information.

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

Accordingly, Mr. Brockman respectfully requests a 45-day extension of the April 16, 2021 deadline by which Mr. Brockman's examinations by the government's experts are to be completed, and concomitant adjustments to the remainder of the deadlines in the current competency hearing schedule, to allow time for Mr. Brockman to fully recover from this recent medical event before undergoing the Government's psychiatric and psychological evaluations.

### **CONCLUSION**

For the foregoing reasons, this Court should extend all deadlines in the February 1 Order as set out in the Proposed Order submitted with this motion.

Dated: March 31, 2021

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*Attorneys for Defendant*  
*Robert T. Brockman*

**CERTIFICATE OF CONFERENCE**

I certify that on this 31st day of March, 2021, I conferred with counsel for the United States, Mr. Corey Smith, who confirmed that the United States is unopposed to this Motion.

*/s/ Jason S. Varnado*

\_\_\_\_\_  
Jason S. Varnado

**CERTIFICATE OF SERVICE**

I certify that on this 31st day of March, 2021, this document was served by electronic filing service on all counsel of record.

*/s/ Jason S. Varnado*

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Jason S. Varnado

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**UNITED STATES OF AMERICA**

**v.**

**ROBERT T. BROCKMAN**

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**Criminal No. 4:21-cr-00009**

**DECLARATION OF KATHRYN KENEALLY**

I, Kathryn Keneally, declare as follows:

1. I am a member of the bar of the State of New York, the United States Supreme Court, and various other federal courts. I am a partner of the law firm Jones Day, counsel for the defendant Robert T. Brockman. I make this Declaration in support of Defendant Robert T. Brockman's Motion to Modify Competency Hearing Scheduling Order.

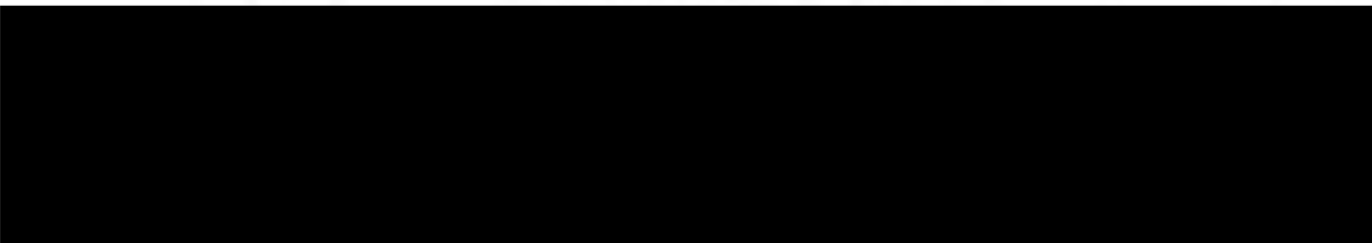
2. The Competency Hearing Scheduling Order entered by this Court on February 1, 2021, scheduled a hearing to commence on June 29, 2021, to determine whether Mr. Brockman may presently be suffering from a mental disease or defect rendering him mentally incompetent to the extent that he is unable to understand the nature and consequence of the proceedings against him or to assist properly in his defense. Dkt. No. 36. ("February 1 Order"). The February 1 Order set April 16, 2021, as the deadline for the completion of Mr. Brockman's psychiatric and/or psychological evaluations by the Government's experts.

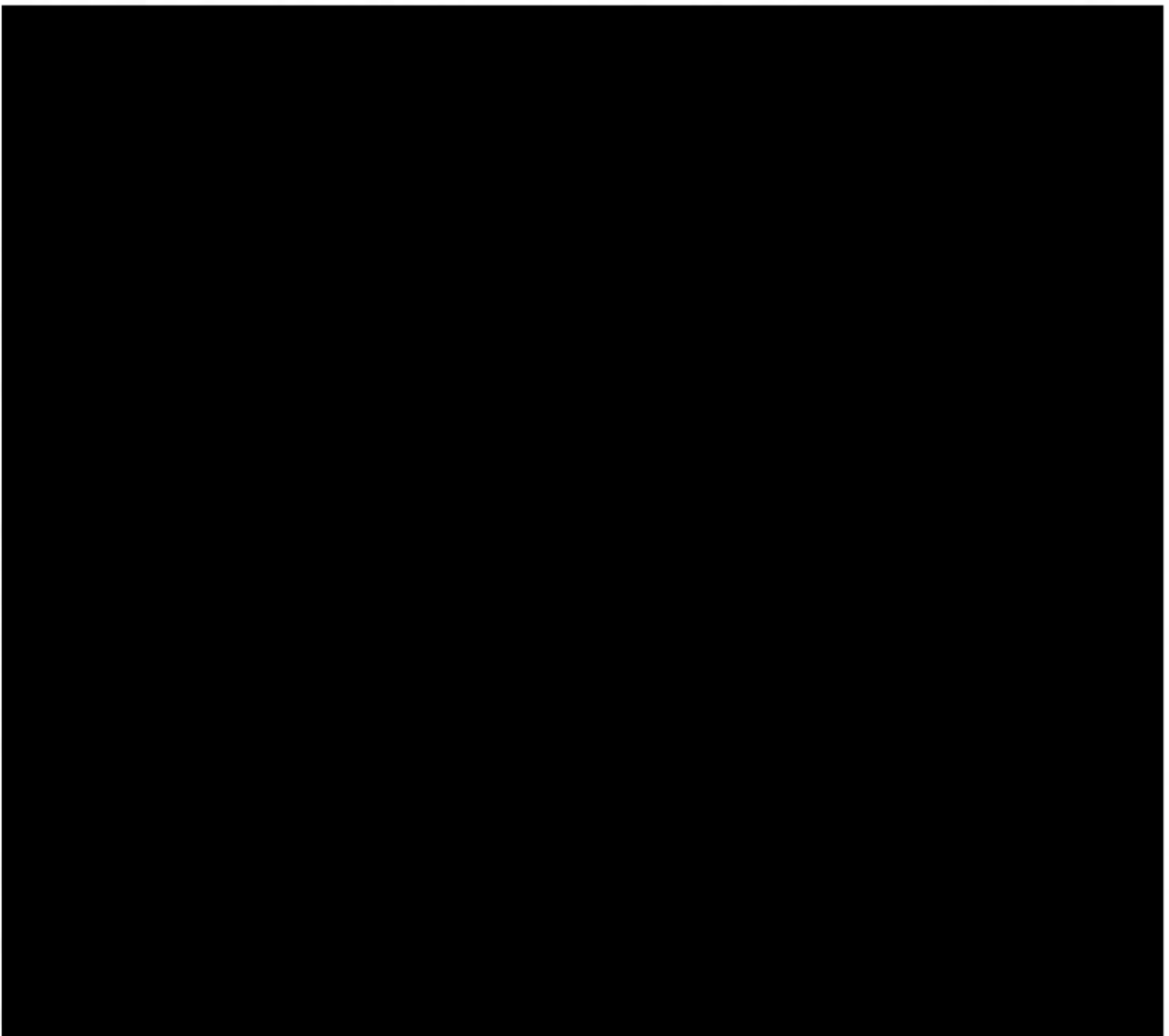


3. In accord with the government's requests, Mr. Brockman agreed to submit to a positron emission tomography ("PET") scan, an overnight sleep study, a one-day examination by one of the government's experts, and three consecutive days for two additional government experts to interview and examine Mr. Brockman, all of which had been scheduled to be completed in advance of the April 16, 2021 deadline. Of these examinations, only the PET Scan, which was administered on March 12, 2021, has been completed.

4. On Monday, March 15, 2021, Mr. Brockman's wife, Dorothy, contacted me to tell me that Mr. Brockman had been taken to the emergency room at Houston Methodist Hospital on the evening of Sunday, March 14. He was admitted to the Neurosensory Center in the following days, and remained in the hospital until Friday, March 19.

5. On Thursday, March 25, Mr. Brockman was examined on an outpatient basis by Dr. Seth Lerner of Baylor College of Medicine, who has been Mr. Brockman's treating urologist since 2006. On Friday, March 26, I participated in a call in which Dr. Lerner described Mr. Brockman's recent medical issues and current condition, and on Monday, March 29, I spoke with Dr. James Pool, also of Baylor College of Medicine, who is Mr. Brockman's primary care physician. I have summarized those discussions in paragraphs 6 and 7, below, which I respectfully request be redacted and sealed from the public record of this Declaration, due to the sensitive medical information provided.



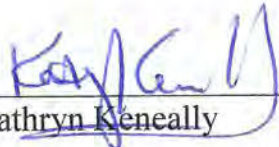


8. For this reason, we respectfully request an extension of approximately 45 days of all deadlines in the current competency hearing schedule, to allow time for Mr. Brockman to fully recover from this recent medical event before undergoing the Government's psychiatric and psychological evaluations.



I declare under penalty of perjury that the foregoing is true and correct.

Executed in New York, New York on March 29, 2021.

  
Kathryn Keneally